

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 776 - SB 1158

March 3, 2015

**SUMMARY OF ORIGINAL BILL:** Creates a “protected consumer security freeze” for the purpose of prohibiting the release of a consumer report of a “protected consumer” when the purpose of such release is to consider the protected consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. Defines a protected customer as a person 18 years of age at the time a freeze is placed or an incapacitated person for whom a guardian or conservator has been appointed. Prevents such freeze from being placed on a protected consumer in certain situations regarding personal inquiries, personal consumer report monitoring subscriptions, or in cases involving criminal conduct. Establishes provisions determining when a protected consumer security freeze may or may not be placed upon a consumer and how and when an established consumer security freeze may be removed. Creates requirements for credit bureaus, or consumer reporting agencies in complying with these requirements. Authorizes a credit bureau or consumer reporting agency to levy a fee, not to exceed \$5.00 against a protected consumer or the consumer’s representative for placement or removal of a protected consumer security freeze; however, this fee does not apply to the removal of a consumer security freeze in regards to an individual who was less than 18 years of age at the time such freeze was placed. This consumer security freeze supersedes the consumer security freeze currently in statue, pursuant to Tenn. Code Ann. § 47-18-2108. Any party found and convicted of violating these provisions is subject to violations against the *Tennessee Consumer Protection Act* and upon conviction by a court of competent jurisdiction, will be liable for all reasonable legal costs incurred by the prevailing party in addition to any civil penalties.

A birthing institution or the authorized representative of such institution, in conjunction with a birth in or en route to such institution, is required to provide a prepared notice to the mother, father, or legal guardian of the child for the purpose of informing such individuals on the purpose and benefits of placing a protected consumer security freeze on an individual under the age of 18 years old. If the birth occurs in a vehicle, the Department of Health’s Office of Vital Records is required to provide notice to the applicable mother, father, or legal guardian of the child, in conjunction with any issued certificate of birth. Requires the Tennessee Department of Commerce and Insurance’s Division of Consumer Affairs to prepare a notice for the Office of Vital Records to distribute on or after January 1, 2016 that explains how to request a consumer reporting freeze on a report related to an individual who is under 18 years of age and the benefits of placing such security freeze.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

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## IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (003695):** Reduces, from 18 to 16 years, the age by which this legislation applies with regards to protected consumer security freezes. Deletes language in the original bill, effectively requiring an individual, who is under the age of 16 years at the time a protected consumer security freeze is placed, to have such freeze in place until the individual submits a request for removal to the applicable credit bureau or consumer reporting agency. Requires the Attorney General to enforce all violations with regards to this legislation, as amended. Authorizes a court to award reasonable attorneys' fees and costs for a violation of these provisions. Increases, from \$5.00 to \$10.00, the maximum cost a credit bureau or consumer reporting agency may charge a consumer for placement or removal of a protected consumer security freeze.

## FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Currently, pursuant to Tenn. Code Ann. § 47-18-2108, a consumer may place a voluntary security freeze on a credit bureau or consumer reporting agency, effectively preventing the release of a consumer report that would yield vital credit information of the consumer. This voluntary security freeze is superseded by this legislation.
- This legislation provides that informational notices be provided to the mother, father, or legal guardian of a newborn for the purpose of informing such individuals of the purpose and benefits of placing a security freeze on an individual under 16 years of age.
- Placing a security freeze on an individual will result in no impact to the state.
- Based on information provided by the Department of Health, the Office of Vital Records will be able to provide the notice to the mother, father, or legal guardian of the child, as appropriate, without any additional cost.
- The Division of Consumer Affairs can draft the required notice and distribute copies of such notice to the Office of Vital Records, and any costs incurred to perform this task are assumed to be not significant.
- According to the Office of the Attorney General and Reporter, any increase in cases resulting from violations with regards to protected consumer security freezes can be accommodated without additional costs.

## IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Birthing institutions will be able to provide a copy of the notice pursuant to this legislation with no significant increase in business expenses.
- A credit bureau or consumer reporting agency will be able to levy a fee, not to exceed \$10 on a consumer or consumer's representative for the placement or removal of a protected consumer security freeze.
- It is unknown how many protected security freezes will be placed or removed annually.
- It is reasonably estimated that any increase in business revenue to a credit bureau or consumer reporting agency for placement or removal of a freeze will be offset by a reduction in revenue experienced as a consequence of being unable to sell a consumer report to creditors seeking such information; therefore, the net impact of this legislation is assumed to be not significant.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, appearing to read "Jeffrey L. Spalding". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Spalding" clearly distinguishable.

Jeffrey L. Spalding, Executive Director

/jdb